

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKOndre Vernon NelsonRECEIVED  
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2017 JAN 31 PM 4:19

(In the space above enter the full name(s) of the plaintiff(s).)

AMENDED  
COMPLAINTunder the Civil Rights Act,  
42 U.S.C. § 1983

-against-

New York City N.Y.Jury Trial: ☒ Yes ☐ No  
(check one)16 Civ. 6354 (CM)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 1-31-17

## I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff's

Name

Ondre V. Nelson

ID#

NYS ID No. # [REDACTED]

Current Institution

Anna M. Cross Center C95

Address

Rikers Island 18-18 Hazen Street East  
Elmurst New York Zip 11370

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name

New York City N.Y.

Shield #

Where Currently Employed

Address

Defendant No. 2 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
Where Currently Employed \_\_\_\_\_  
Address \_\_\_\_\_

Defendant No. 3 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
Where Currently Employed \_\_\_\_\_  
Address \_\_\_\_\_

Who did  
what?

Defendant No. 4 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
Where Currently Employed \_\_\_\_\_  
Address \_\_\_\_\_

Defendant No. 5 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
Where Currently Employed \_\_\_\_\_  
Address \_\_\_\_\_

## II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?  
Anna M. Cross Center C95 Department of Cor-  
rections, Riker Island 18-18 Hazen St. E. Elmhurst N.Y. Zip 11370

B. Where in the institution did the events giving rise to your claim(s) occur?

My Housing Units

C. What date and approximate time did the events giving rise to your claim(s) occur?

On My Arrival to Rikers Island A.M. K.C. C95  
September 29, 2015 around 10:30 P.M. Until  
Present Date

D. Facts: To Colleen McMahon, Chief United States District  
Judge: In the Interest of Justice it is imperative to Bring  
to you A Complete Awareness of the Facts, and make the  
Necessary Complaint, or other wise to prove bad Faith

What  
happened  
to you?

Nelson Ondre

## Amended Complaint No# 16-CV-6354 (CM)

Activities and legal points affecting the Day to Day Operation and hardships that Me and Most Detainees faces while being detained at Rikers Island Correctional Facility. This notice will help to explain the Bob Barker Mattresses Company Inc. and the N.Y.C. D.O.C. neglect in falling particular compliance to the stated table Instructions placed on the table on Gym mats used as Bedmattresses within the housing areas inside of the New York City D.O.C. I found entering N.Y.C. D.O.C. on September 29, 2015. I spent the first six days in a intake holding Cell. At A.M.K.C. C95 I was forced to sleep bare Cold Concrete Floors without not so much a Blanket or Pillow. This in itself is Cruel & unusual punishment, and A Blatant violation of my Constitutional Rights. On 10/5/15 I was transferred to an housing area within A.M.K.C. C95. Once in the housing area I was then forced to sleep Metal Framed Foundation with a floor Mattress used as Please see Attachment II Statement of Claims on separate paper!

Was anyone else involved?

Who else saw what happened?

### III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Server Back pain, in my lower Back which made a preexisting Lower Back pain worse. I developed skullies in my Back, numbness of, arm, shoulders, hands, Bites hips, legs, feet, as well as pain in those areas. Sleep deprivation or sleepless nights, Even now. Disorientation, Mental stress & pain. My treatment is therapy & lots of pain meds. People who knew: Dr. Mahamed I met with him on 10/10/16 11am, Doctor Leberman on 9/28/16 Captain Battle Field shield No# 16476, Captain Cruz. Shield No# 870. The Grievance Officer Mr. Jefferson Shield No# 3076, Mr. Guerrant The Grievance Supervisor. I met with them on 11/7/16

### IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

Amended Complaint No. 16-CV-6354(CM)

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Anna M. Kross Center C95 Rikers Island.  
18-18 Hazen Street East Elmhurst N.Y. 11370

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☐ No ☒ Do Not Know ☐

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

Anna M. Kross Center C95

1. Which claim(s) in this complaint did you grieve? I grieved about my pain in my back, about the Bob Barker Mattress, about the mattress being used with a foundation when it's not suppose to with a foundation.

2. What was the result, if any? D.O.C. for N.Y.C. states that they won't change or do anything about the mattress or move me for any of these reasons. Because policy & Safety Rules.

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. I asked doctors to write medical notes for me in order to change my situation. I spoke to a number of N.Y.C. D.O.C. Super Visors. I spoke to the Grievance Officer & The Grievance Super Visors both, them and the others. Said I had exhausted all of my Remedies. The Grievance Supervisor said that he would write a letter stating, file a grievance!

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:  
Mr. Jefferson Sheila No. 3076 the Grievance Officer and the Grievance Super Visor said that I had exhausted all of my Remedies for this matter. Mr. Guerrant also said that would give a letter stating these facts which I'm still waiting to receive till this very day

2. If you did not file a grievance but informed any officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I met with Mr. Gumpert, The Grievance the Grievance Super Visor and the Grievance Officer Mr Jefferson Shield No # 3076 on 11/7/16, They Both Convoid to me that I had exhausted all of my Grievance Remedies and that I had taken this matter as far as I can it. They said that New York City Department of Corrections would not changer or double up on Mattresses Because Safty and Policy

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount).

I would like the court to the New York City Department of Correction to make stop the cruel & painfull abuse of Detainees people who were merly accused of a Crim Not Convicted of any Crimes against the City. I would also like The Court to make N.Y.C. D.O.C. change their Policy & Rules towards the innocent until proven guilty detainees. and to compensate my for my pain & suffering in the amount of \$18,000,000, Eighteen Million Dollars or what ever the Court deems fair Compensation for my more than 18 eighteen month of Debeberate Abuse. Respectfully Yours. 5 Ondre V Nelson 1/12/17

II State of Claims: Part D- Continuance From Page 3

Bedding. The table clearly states that the Mattress to used without A Foundation. Which New York City Department of Corrections completely Ignored. (Tables Inclosed) I was placed in several housing Units. Which I informed all of the housing areas Officer's about my situation & the problems that I am exsperiencing. They inturn told me to grieve it and sign up for sick call. So I did both. Once I was in sick call medical. I then informed and exsplaind to the Doctor that I have a pre existing lower back pain problem, and that the Mats that they were using as Mattresses where were aggrivating my back as well as causing much more server pain to my lower back, and also that I am exsperiencing numness through out my Body- Neck, Arms, hands, hips & legs. I also told the Doctors that these pains and other ailments were causing me to constantly wake up durring the night, and that this was happining every single night that I'm here on Rikers Island on a Daily bases. I asked the A.M.K.C. Medical Staff if e,ither they could replace the mattress with a better one or double up on the mattresses or move me to another area within the N.Y.C. D.O.C. to ease my pain. They told me to ask the correction officer Super Visors and to put a grievance uppond the matter. In which case I did both. New York City D.O.C. said that they would inspect and replace it neccessary. Upon Inspection of

the mattress. I was told by D.O.C. Supervisors that this is what is issued and that it is against New York City Department of Corrections policy to double up on Mattresses. I then tried the Medical Staff again, (Medical Record Transcripts included & also enclosed the Grievances) They told me that there is nothing that they could do about my situation and that it's whatever N.Y.C. D.O.C. says and that can't be changed. It's N.Y.C. D.O.C. Rules. I then spoke to Captain Battlefield Shield No. #1647 who is assigned to A.M.K.C. C95 Medical Dept During the morning shift from 5 AM to 1 PM. On several occasions during my visits to the medical Dept. I also spoke with Captain Cruz Shield No. #870 (who is assigned the south side of A.M.K.C. C95 part of the building at all times of the day. I spoke to both Captains on many separate occasions about this matter. They both said to me that this D.O.C. Policy and that the only thing that could be done is to grieve it, but that N.Y.C. D.O.C. wouldn't change this because of safety issues. I then met & spoke to Mr. Guerrant the Grievance Supervisor at A.M.K.C.-OBCC and CPSU and I also spoke the Grievance Officer Mr. Jefferson Shield No. #3076 assigned to A.M.K.C. C95 on November 7, 2016 at approx. 10:00 AM. They both inform me that I couldn't grieve this matter any further, and that I had exhausted all of my Grievance levels and that this was my last remedy for this situation. I was informed by Doctor Leberman who works at West Facility on Rikers Island Address 16-06 Hazen St. E. Elmhurst N.Y. zip 11370

Once Mr. Guerrant, the Supervisor of Grievances Gives me the letter stating that I have exhausted all of my Remedies of the Grievance Process, I will send it to you the Court of United States Southern District of New York ASAP. Also there are more ~~Medical~~ records that the Medical Department hasn't given me (like Me ~~also~~ Developing Skullious) Because it enter my Medical records after I sent for a <sup>copy</sup> My Medical Records. Please Feel free to send for an up to date copy of my Med. Records, I will do the same, and ask for them to send me my <sup>All</sup> x-rays of my Back

Amendment (Page 3 of 9) compliant No. #6-0354 (CM)  
Continuance From Page 3 II Statement of Claims Part D See Back of this page

Dr. Leberman who is the Orthopedic Surgeon at West Facility Informed that I had developed Skullieous in my lower back. Skullieous is a curvature of the spine I had never had this dioposis before. These Mattresses causes while twisting and turning to be limited while trying to Sleep. Request for another mattress is always denied. While Medical can only perscribe pain medication with little to hardly any effect at all for those who complain. Only by this lawsuit can this problem be addressed and maybe changed. A request is now made for a redress of full compensation for Compensatory and punitive damages as stated to all emotional, Physical and mental torment being caused by these uncomfortable Beds. In lights to the points and facts stated herein it is requested that you and your delegates or legal counsel looks into this claim as well as granting me full compensation with a reasonable time as to my notice of claim which I am now setting at a sum of certain Eighteen Million Dollars \$18,000,000, granting me relief, considering all of the facts herein this written record notice of claim as this final expression in this commercial statement. However I await, your Reply of this receipt of this Commain within seven 7 days. Until then I remain Respectful. This Document was prepared and Executed and sealed by My Own Hand this 12<sup>th</sup> Day of January 2017. Ondre V Nelson

Nelson Andre

BFC No. # 8951501617

Amendment.  
Amended Complaint No. # 16-CV-6354 (M)

VI. Previous lawsuits:

On  
these  
claims

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☐ No ☒

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

3. Docket or Index number \_\_\_\_\_

4. Name of Judge assigned to your case \_\_\_\_\_

5. Approximate date of filing lawsuit \_\_\_\_\_

6. Is the case still pending? Yes ☐ No ☐

If NO, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_

On  
other  
claims

C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ☒ No ☐

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

3. Docket or Index number \_\_\_\_\_

4. Name of Judge assigned to your case \_\_\_\_\_

5. Approximate date of filing lawsuit \_\_\_\_\_

Nelson Ondre

Amended Complaint No. # 16-CV-6354 (CM)

6. Is the case still pending? Yes ☒ No ☐  
If NO, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 12 day of January, 2017.

Signature of Plaintiff

Inmate Number

Institution Address

Ondre V. Nelson  
8951501617  
Anna M. Kross Center  
C95

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 12<sup>th</sup> day of January, 2017 I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Ondre V. Nelson 1/2/17

Exhibit A

# WARNING

Improper cleaning and/or disinfection will shorten the life of this product.

## Cleaning/Disinfection Instructions

Soils and stains: use soft sponge with neutral suds and warm water.  
Hard to clean spots: use standard liquid household vinyl cleaners and soft sponge.  
Pre-soak if needed.

## Do Not Use

### Harsh Cleaners or Solvents.

Disinfection: dilute disinfectants and/or germicides as specified on manufacturer's product label.

## Use Disinfectants Only

In Those Dilutions Recommended  
By the Manufacturer.

**UNDER PENALTY OF LAW THIS  
TAG NOT TO BE REMOVED  
EXCEPT BY THE CONSUMER**

**ALL NEW MATERIAL  
Consisting of**

**100% THERMALLY BONDED  
FIRE RESISTANT  
POLYESTER STAPLE**

**REG. NO. NC-769**

Certification is made by the manufacturer  
that the materials in this article are  
described in accordance with law.

**MADE BY  
BOB BARKER CO. INC  
7925B PURFOY ROAD  
FUQUAY-VARINA, NC 27526**

**Patent #6,807,694  
MADE IN USA**

Bob Barker Company, Inc. Fuquay-Varina, NC 27526

Manufactured by:  
Bob Barker Co., Inc.  
7925 Purfoy Road  
Fuquay-Varina, NC 27526

Date of Manufacture:

**JN30754GDBL**  
Prototype ID: PJM25754-1

This mattress meets the requirements of  
16 CFR 1633 (federal flammability (open  
flame) standard for mattress sets) when  
used without a foundation.

**THIS MATTRESS  
IS INTENDED TO BE USED  
WITHOUT A FOUNDATION**

# City slams brakes on cab grabs

Rebecca Harshbarger  
and Daniel Prendergast

# Cons sleep deprived

## \$736M suit vs. Rikers for uncomfy beds

# EXCLUSIVE

[illegible]

julie.marsh@nydcs

Exhibit C

Form: # 7101R, Eff.: 09/10/12, Ref.: Dir. #3376 - page 1



City of New York - Department of Correction

# INMATE GRIEVANCE AND REQUEST PROGRAM STATEMENT FORM

Inmate's Name: <u>Ondre Nelson</u>	Book & Case #: <u>895-15-01617</u>	NYSID # (optional): <u>[REDACTED]</u>	
Facility: <u>AMHC</u>	Housing Area: <u>W 14LB</u>	Date of Incident: <u>7/5/16</u>	Date Submitted: <u>7/5/16</u>

All grievances and requests must be submitted within ten business days after the incident occurred, unless the condition or issue is ongoing. The inmate filing the grievance or request must personally prepare this statement. Upon collection by Inmate Grievance and Request Program (IGRP) staff, IGRP staff will time-stamp and issue it a grievance/request reference number. IGRP staff shall provide the inmate with a copy of this form as a record of receipt within two business days of receiving it.

## Request or Grievance:

I have been forced to use the Bob Barker mattress (prototype ID: PJM25754-1) on a foundation when it is clearly labeled to be used without one. The department is aware that these mattresses are unsuitable and has failed to replace them. This forced mis-use has resulted in me suffering severe back pain.

## Action Requested by Inmate:

Replace these mattresses with a more suitable product and pay me for my pain and suffering.

Please read below and check the correct box:

Do you agree to have your statement edited for clarification by IGRP staff?  
Do you need the IGRP staff to write the grievance or request for you?  
Have you filed this grievance or request with a court or other agency?  
Did you require the assistance of an interpreter?

<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

Inmate's Signature:

Ondre Nelson



Date of Signature:

7/5/16

For DOC Office Use Only

IGRP RETAINS THE DOUBLE-SIDED ORIGINAL FOR ADMINISTRATIVE RECORDS.  
IGRP MUST PROVIDE A COPY OF THIS FORM TO THE INMATE AS A RECORD OF RECEIPT.

Time Stamp Below: <u>7-12-16</u>	Grievance and Request Reference #: <u>K629116</u>	Category: <u>Environment</u>
Inmate Grievance and Request Program Staff's Signature: <u>M. M. [Signature]</u>		

 <b>CITY OF NEW YORK - DEPARTMENT OF CORRECTION</b> 	
<b>INMATE GRIEVANCE AND REQUEST PROGRAM</b>	
<b>DISPOSITION FORM</b> Attachment - C	
Form: # 7102R Eff.: 09/12/12 Ref.: Dir. #3376	
Grievance/Request Reference #: K629/16	Date Filed: 07/12/16
Facility: ANKC	
Title of Grievance or Request: Environmental	Category: Environmental
From IGRP Inmate Statement Form, print or type short description of request/grievance:  Inmate claims he is suffering from severe back pain due to the mattress.         	
Action Requested by Inmate:  Replace the mattress and pay him for his pain and suffering.         	
<b>STEP 1: INFORMAL RESOLUTION</b>	
Check one box: <input checked="" type="checkbox"/> Grievance <input type="checkbox"/> Request <input type="checkbox"/> Submission not subject to the IGRP process	
The Inmate Grievance and Request Program proposes to informally resolve your grievance or request as follows below. Alternatively, IGRP staff shall provide an explanation for why the submission is not subject to the IGRP process.	
The Captain notified, mattress will be inspected and if necessary will be replaced.	
Are you satisfied with the proposed resolution? <input checked="" type="checkbox"/> Yes, I accept the resolution. <input type="checkbox"/> No	
I request a formal hearing of the Inmate Grievance Resolution Committee within 5 business days from notification of the proposed resolution. I understand that if my submission involves a request to exercise religious beliefs or practices not currently available, then the Committee on Religious Accommodations will review my request	
Inmate's Signature: <i>Andre Nelson</i>	Date: 8/4/16
Grievance Supervisor's Signature: <i>M. M. P.</i>	Date: 8/4/16